



House of Representatives

General Assembly

File No. 225

February Session, 2008

House Bill No. 5032

House of Representatives, March 27, 2008

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING OPERATION OF A VESSEL WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUG.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2008*) (a) A person is guilty of
2 manslaughter in the second degree with a vessel when, while
3 operating a vessel upon the waters of this state under the influence of
4 intoxicating liquor or any drug, or both, such person causes the death
5 of another person as a consequence of the effect of such liquor or drug.

6 (b) Manslaughter in the second degree with a vessel is a class C
7 felony and the court shall suspend the safe boating certificate for
8 operation or certificate of personal watercraft operation for one year
9 for any person found guilty under this section.

10 Sec. 2. Section 15-140l of the general statutes is repealed and the
11 following is substituted in lieu thereof (*Effective October 1, 2008*):

12 (a) A person commits the offense of reckless operation of a vessel in

13 the first degree while under the influence when, while under the
14 influence of intoxicating liquor or any drug, or both, or while such
15 person has an elevated blood alcohol level content, such person
16 operates a vessel at such speed or maneuvers a vessel in such a manner
17 as to result in (1) [death or] serious physical injury to another person,
18 or (2) damage to property in excess of two thousand dollars.

19 (b) Any person guilty of reckless operation of a vessel in the first
20 degree while under the influence shall be fined not less than two
21 thousand five hundred dollars or more than five thousand dollars or
22 imprisoned not more than two years, or both.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	15-140l

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JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a new crime of manslaughter in the second degree with a vessel. It also expands the offense of reckless operation of a vessel in the first degree while under the influence. To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties, a potential revenue gain from criminal fines and potential cost for incarceration and/or probation supervision in the community exist. It is anticipated that relatively few fines would be imposed on an annual basis, and, consequently, any revenue gain under the bill is expected to be minimal. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

The Out Years

The annualized ongoing cost identified above would continue into the future subject to inflation; the annualized revenue gain indicated above would remain constant into the future since fine amounts are set by statute.

OLR Bill Analysis**HB 5032*****AN ACT CONCERNING OPERATION OF A VESSEL WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUG.*****SUMMARY**

The bill creates the crime of 2nd degree manslaughter with a vessel when a person operating a vessel under the influence of intoxicating liquor, any drug, or both causes the death of another person as a consequence of the effect of such liquor or drug. The bill makes this offense a class C felony, which is punishable by up to 10 years in prison, a fine of up to \$10,000, or both. It also requires the court to suspend the operator's safe boating or personal watercraft certificate for one year.

Under current law, it is a crime for a person under the influence of alcohol, drug, or both or with an elevated blood alcohol content (BAC) to operate a vessel at such speed, or maneuver a vessel in such a manner as to result in someone else's death. A violation is punishable by imprisonment for up to two years, a fine of up to \$2500, or both. Current law also requires the court to suspend the operator's safe boating certificate for operation or certificate of personal watercraft operation for one year.

The bill appears to eliminate the requirement that the death was caused by the vessel's speed or maneuvers. It also appears to eliminate the offense of operating a vessel at such speed or maneuvering a vessel in such a manner as to result in death while the operator has an elevated BAC.

EFFECTIVE DATE: October 1, 2008

BACKGROUND***Vessel***

The law defines a “vessel” as every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water (CGS § 15-127).

Elevated Blood Alcohol Content

The law prohibits people from operating a vessel (1) while under the influence of intoxicating liquor or any drug, or (2) both or with an elevated BAC.

The law defines “elevated blood content” as a ratio of alcohol in the blood that is .08% or more, by weight. But if the operator is under age 21, the law defines it as .02% or more (CGS § 15-133(d)).

Operation of a Vessel

In order for a vessel to be operated, it must be underway or aground and cannot be moored, anchored, or docked (CGS § 15-133(d)).

Operating Under the Influence

In the context of motor vehicles, “under the influence” means that a driver has become so affected in his mental, physical, or nervous processes that he lacks to an appreciable degree the ability to operate his vehicle (*Infeld v. Sullivan*, 151 Conn. 506 (1964)).

It seems likely, but not certain, that this definition of “under the influence” will also apply to this bill since the drunken boating laws are modeled after the drunken driving laws.

Safe Boating Certificate

No state resident, person owning real property in the state, or person owning a vessel in the state may operate on state waters a vessel required to be registered or numbered by state law, unless such he or she has a valid vessel operator license issued by the U.S. Coast Guard or a safe boating certificate issued by the environmental protection commissioner (CGS § 15-140(e)). Anyone operating a

personal watercraft, such as a Jet-Ski, must carry a certificate of personal watercraft operation.

Suspension of Right to Operate a Vessel

The law requires the environmental protection commissioner to suspend the operator's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation, or certificate of personal watercraft operation, for various lengths of time depending on the operator's record and his or her blood alcohol content. For example, the commissioner must suspend for 90 days if a first offender had an elevated blood level and 120 days if the BAC was .16% or more (CGS §15-140q(i)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 39 Nay 0 (03/12/2008)